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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/554,196 | 10/24/2005 | Hans-Peter Andra | 000008-005 | 2655 |
| 44012 | 7590 | 04/22/2009 | EXAMINER | |
| WRB-IP LLP 1217 KING STREET ALEXANDRIA, VA 22314 | | | BUCKLE JR, JAMES J | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3633 | |
| | | | NOTIFICATION DATE | |
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| | | | 04/22/2009 | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

HARRY@WRB-IP.COM
angie@wrb-ip.com

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/554,196 | ANDRA ET AL. | |
| | Examiner | Art Unit | |
| | JAMES J. BUCKLE JR | 3633 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 February 2009.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8 and 10-19 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-8 and 10-19 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 24 October 2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

The following is a Non-Final Office action in response to communications received on 2/13/2009. Claim 9 has been canceled. Currently claims 1-8 and 10-19 are pending and examined below.

Drawings

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because drawing lines, particularly lead lines are not highly visible and distinguishable from section lines and edge lines and in shaded areas. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 1-8, and 10-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claim 1 recites the limitation of the clamping plate being supported "in a direction of a traction force of the traction element". However the direction is not clear as the traction element(s) are not positively recited element(s) of the claims. Further throughout the claims, it is unclear which element "the traction element" references as plural traction elements have been introduced.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7, 12-13, 16 and 19 are rejected as best understood under 35 U.S.C. 102(b) as being anticipated by Andrä et al. (U.S. Patent No. 6,584,738).

3. Regarding claim 1, Andrä et al. discloses an anchoring (Figures 1-4) for strip-shaped traction element (1) on a supporting structure (3) that is under tension, comprising a base plate (4,11 and 5) attached to the supporting structure and a clamping plate (21, Fig.) clamped against the base plate, and fixed by adhesion and clamping (Col. 2, lines 31-42), wherein the clamping plate is supported on the base plate in a "positive fit" in a direction of a traction force of the traction element . The examiner considers the base plate (4, 11, and 5) interlocking with the clamp (21) in "Direction 1"). The examiner also considers the application of an adhesive to the anchoring area sufficient to meet the limitation

of being "fixed" by adhesion to be considered prior art for applicant's address this argument.

4. Regarding claim 2, Andrä et al. discloses the clamping plate (21) on either side of the traction element (1) comprising in each case a downwardly protruding securing tappet (22) which engages, in each case a securing recess of the base plate (Fig. 2). Examiner's considers applicant failure to address the argument of the bolts (13, 22) being equivalent to the tappet to be admission as prior art.

5. Regarding claim 3, Andrä et al. discloses the claming plate (21) that exhibits, on either side, in each case, a securing protrusion (22) which is supported in each case against "a stop" (considered to be the upper surface of the clamp along with any washer which effectively "stops" and supports the protrusion and is consider to be connected, via contact, to the base plate) that is connected with the base plate (11).

6. Regarding claim 4, Andrä et al. discloses (Fig. 2) the clamping plate with its front surface facing in the direction of the traction force that is supported against two "stops" (Stops, Fig. 2) that are connected with the base plate (4,5,11).

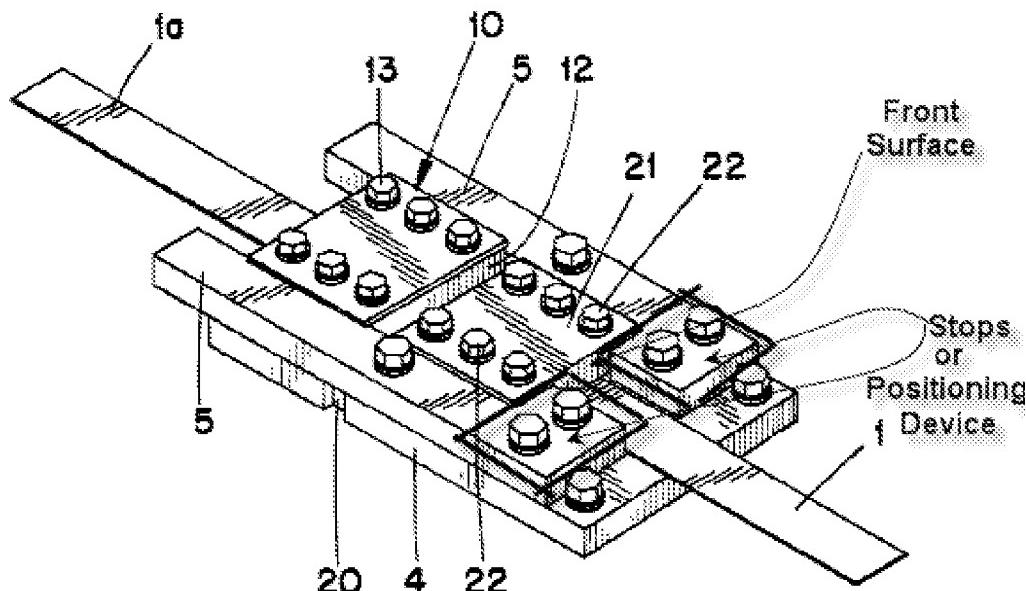


Fig. 2

Reproduced from U.S. Patent No. 6,584,738.

7. Regarding claims 6,12-13 and 16, Andrä et al. discloses the clamping plate that is fixed in position by a positioning device (Positioning Device) which engages the clamping plate (21) in the direction of the traction force in “positive fitting” support against the base plate (4,5,11).

8. Regarding claim 7, Andrä et al. discloses the positioning device (Positioning Device) that is “adapted” to be removed from the anchoring. It has been held that the recitation that an element is “adapted to” perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ 138.

The examiner notes that the “positioning device” can be removed by variety of means that may include torching or sawing.

9. Regarding claim 12, Andrä et al. discloses the clamping plate that is fixed in position by a positioning device (5) which engages the clamping plate (12) in the direction of the traction force in “positive fitting” support against the base plate (11).

10. Regarding claim 13, Andrä et al. discloses the clamping plate that is fixed in position by a positioning device (5) which engages the clamping plate (12) in the direction of the traction force in “positive fitting” support against the base plate (11).

11. Regarding claim 19, Andrä et al. discloses an anchoring as set forth above that is capable of having a force that is transferred substantially equally from the traction element to the base plate and the clamping plate

Claim Rejections - 35 USC § 103

12. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

13. Claims 5, 11 and 17-18 are rejected as best understood under 35 U.S.C. 103(a) as being unpatentable over Andrä et al (U.S. Patent No. 6,584,738).

14. Regarding claims 5 and 11, Andrä et al. discloses the anchoring comprising of stops on the base plate, but does not distinctly disclose the base plate being welded-on push blocks. However, it would have been obvious to one

having ordinary skill in the art to have any metallic structure welded as an optional fastening means to secure two objections together.

15. Regarding claim 17, Andrä et al. further discloses the threaded rod as set forth above that extends in the direction of the traction force. The examiner considers the direction of the traction force to have both a horizontal and vertical component.

16. Regarding claim 18, Andrä et al. discloses the traction element being fixed between the base plate and the clamping plate by adhesion and clamping as set forth above but does not specify adhesive on sides of the traction element facing the base plate and clamping plate. It would have been an obvious matter of design choice to have adhesive on sides of the traction element facing the base plate and clamping plate, since it is stated that the combination of adhesion and clamping contributes to the safety of the tensile force. It would be obvious to one skilled in the art to add adhesive where necessary and if preferred to increasing the safety of the tensile force.

17. Due to the indefiniteness of the claims no allowability determinations can be made at this time.

Response to Arguments

18. Applicant's arguments with respect to claims 1-8, and 10-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES J. BUCKLE JR whose telephone number is (571)270-3739. The examiner can normally be reached on Monday-Thursday, Alternating Friday 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brian Glessner
Examiner

Art Unit: 3633

Art Unit 3633

JJB
Examiner, Art Unit 3633

/Robert J Canfield/
Supervisory Patent Examiner, Art Unit 3635